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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,165	02/01/2001	Luosheng Peng	10480-003-999	9627

7590

09/14/2005

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EXAMINER

PATEL, HARESH N

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/776,165

Applicant(s)

PENG, LUOSHENG

Examiner

Haresh Patel

Art Unit

2154

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 August 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: None.
Claim(s) objected to: None.
Claim(s) rejected: 1-3, 6-10, 13 and 14.
Claim(s) withdrawn from consideration: None.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Continuation of 11. does NOT place the application in condition for allowance because: the cited prior arts still render the claims unpatentable and the final rejection is deemed proper. Also, page 10, lines 5-8 of the specification, clearly states, "The invention should therefore not be limited to the particular embodiments discussed above, but rather is defined by the claims". Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of the claimed subject matter.

Applicant's arguments filed 08/17/2005 have been fully considered but they are not persuasive. Therefore, rejection of claims 1-3,6-10,13 and 14 is maintained.

Applicant argues (1), "Conclusion: Based on all the foregoing, Applicant respectfully submits that independent claims 1, 8 and 13 are not unpatentable over O'NEAL, 6,411,685 (Hereinafter O'NEAL). Thus, Applicant urges the Examiner to withdraw the rejection of independent claims 1, 8 and 13 and to allow these claims". The examiner respectfully disagrees. The claims 1, 8 and 13 are not rejected under 35 U.S.C. 102 with O'NEAL, 6,411,685 only, but the claims 1, 8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neal 6,411,685 in view of "Official Notice", i.e., well-known arts, that contain teachings of an identifier and usage of the identifier, cited arts, Smiga et al., 6,622,147 and/or Allen et al., 6,026, 410, see office action, dated 5/19/2005. Therefore, the rejection is maintained.

Applicant argues (2), "Conclusion: Based on all the foregoing, Applicant respectfully submits that dependent claims of independent claims 1, 8 and 13 are not unpatentable over O'NEAL, 6,411,685. Thus, Applicant urges the Examiner to withdraw the rejection of dependent claims of the independent claims 1, 8 and 13 and to allow these claims". The examiner respectfully disagrees. The claims 1, 8 and 13 and their dependent claims are not rejected under 35 U.S.C. 102 with O'NEAL, 6,411,685 only, but the claims 1, 8 and 13 and their dependent claims are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neal 6,411,685 in view of "Official Notice", i.e., well-known arts, that contain teachings of an identifier and usage of the identifier, cited arts, Smiga et al., 6,622,147 and/or Allen et al., 6,026, 410, see office action, dated 5/19/2005. Therefore, the rejection is maintained.

Applicant argues (3), "O'Neal does not disclose all the steps recited in claim 1, the rejection is based on newly cited portions of O'Neal, and O'Neal is non-analogous art". The examiner respectfully disagrees. The rejection contains rejection for all the steps of claim 1, see office action, dated 5/19/2005, which also contained response to the applicant concerned arguments regarding the steps of the claim 1. Also, please refer below response to the applicant arguments, dated 8/17/2005, for the steps of claim 1. The rejection office action dated 8/24,2005, and the rejection office action dated 5/19/2005, both are concerned with the disclosed information of e-mail containing streaming voice or image files, col., 1, line 10 - col., 2, line 48. The newly cited portions along with the previously cited portions of the cited art are to further clarify rejection for the applicant's arguments/concerns. In response to applicant's concern, that "O'Neal, is Non-analogous Art, not in the same field of endeavor as the present application, and is not reasonably pertinent to the particular problem with which the inventor was concerned", as per the claimed invention, the applicant discloses, a method / computer program product / for optimizing traffic volume in a communications network only (see claims 1-3, 6-10, 13 and 14). O'Neal teaches a method (e.g., col., 4, lines 44 - 58) / computer program product (e.g., col., 4, lines 52 - 66) for optimizing traffic volume (e.g., media information provided based on the thin web browser being used, col., 2, lines 26 - 48) in a communications network (e.g. wide area network, abstract), which is the same field of endeavor. Also, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, a method / computer program product for optimizing traffic volume in a communications network is similar to O'Neal's teachings of media information provided based on the thin web browser (only necessary information provided) being used over the network (e.g. col., 2, lines 26 - 48, abstract). The cited reference is reasonably pertinent to the problem, i.e., optimizing traffic volume in a communications network. Therefore, the rejection is maintained.

Applicant argues (4), "O'Neal does not disclose or suggest parsing a header portion of a first file to extract an identifier of a second file". The examiner respectfully disagrees. The limitations, "parsing a header portion of a first file to extract an identifier of a second file", are not rejected under 35 U.S.C. 102 with O'NEAL, 6,411,685 only, but the limitations are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neal 6,411,685 in view of "Official Notice", i.e., well-known arts, that contain teachings of an identifier and usage of the identifier, cited arts, Smiga et al., 6,622,147 and/or Allen et al., 6,026, 410, see office action, dated 5/19/2005. Also, O'Neal discloses parsing a header portion (e.g., use of pointer to parse information including header information from e-mail received according to the SMTP, col., 11, lines 22 - 62, figure 4a) of a first file (e.g., use of TIFF or GIF file, col., 2, lines 20 - 44, audio file, col., 12, lines 24 - 41, col., 9, lines 44 - 56) to find a reference header (e.g., reference information of other message information, col., 11, lines 22 - 62, figure 4a), and extracting (e.g., use of pointer to separate information including header information from e-mail received according to the SMTP, col., 11, lines 22 - 62, figure 4a) an identification (e.g., type of e-mail attachment, figure 14, using HTTPS, col., 5, lines 40 - 53) of a second file (e.g., e-mail attachment file, col., 6, lines 12 - 24, figure 14, text or image or audio, col., 15, lines 27 - 58, col., 9, lines 44 - 56) in the reference header (e.g., reference information of other message information, col., 11, lines 22 - 62, figure 4a)". Besides referring to the original e-mail itself, O'Neal also discloses referring to other information including attachments, etc. Therefore, the rejection is maintained.

Applicant argues (5), "the only pointer disclosed by O'NEAL is a pointer to the message body". The examiner respectfully disagrees. Besides a pointer to the message body, O'NEAL discloses several other pointers/references/links, for example, reference to more than one files to be attached, reference to address book, paragraph 28, reference to other message list, address list, folders link, addresses link, paragraph 66, etc. Also, page 10, lines 5-8 of the specification, clearly states, "The invention should therefore not be limited to the particular embodiments discussed above, but rather is defined by the claims". Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of the claimed subject matter.

Applicant argues (6), "the pointer in O'Neal does not perform any parsing or separating of information in header, the pointer does not point to a location of any attachments and the pointer does not point to the location of second file". The examiner respectfully disagrees in response to applicant's arguments. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies, "the pointer to perform parsing or separating of information in the header, the pointer does not point to a location of any attachments and the pointer does not point to the location of second file", are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The First inquiry must be into exactly what the claims define. See *In re Wilder*, 166 USPQ 545, 548 (CCPA 1970). What is claimed is, "parsing a header portion of a first file to find a reference header", see claim 1. O'Neal discloses parsing a header portion (e.g., use of pointer to parse information including header information from e-mail received according to the SMTP, col., 11, lines 22 – 62, figure 4a) of a first file (e.g., use of TIFF or GIF file, col., 2, lines 20 – 44, audio file, col., 12, lines 24 – 41, col., 9, lines 44 – 56) to find a reference header (e.g., reference information of other message information, col., 11, lines 22 – 62, figure 4a), and extracting (e.g., use of pointer to separate information including header information from e-mail received according to the SMTP, col., 11, lines 22 – 62, figure 4a) an identification (e.g., type of e-mail attachment, figure 14, using HTTPS, col., 5, lines 40 – 53) of a second file (e.g., e-mail attachment file, col., 6, lines 12 – 24, figure 14, text or image or audio, col., 15, lines 27 – 58, col., 9, lines 44 – 56) in the reference header (e.g., reference information of other message information, col., 11, lines 22 – 62, figure 4a)". The well-known arts, contain teachings of an identifier and usage of the identifier, see cited arts, Smiga et al., 6,622,147 and/or Allen et al., 6,026, 410. Therefore, the rejection is maintained.

Applicant argues (7), "O'Neal does not disclose or suggest determining a nearest location to retrieve the second file based on the identifier, and retrieving the second file based on the determining". The examiner respectfully disagrees. The limitations, "determining a nearest location to retrieve the second file based on the identifier, and retrieving the second file based on the determining", are not rejected under 35 U.S.C. 102 with O'NEAL, 6,411,685 only, but the limitations are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neal 6,411,685 in view of "Official Notice", i.e., well-known arts, that contain teachings of an identifier and usage of the identifier, cited arts, Smiga et al., 6,622,147 and/or Allen et al., 6,026, 410, see office action, dated 5/19/2005. Also, O'Neal discloses parsing a header portion (e.g., use of pointer to parse information including header information from e-mail received according to the SMTP, col., 11, lines 22 – 62, figure 4a) of a first file (e.g., use of TIFF or GIF file, col., 2, lines 20 – 44, audio file, col., 12, lines 24 – 41, col., 9, lines 44 – 56) to find a reference header (e.g., reference information of other message information, col., 11, lines 22 – 62, figure 4a), and extracting (e.g., use of pointer to separate information including header information from e-mail received according to the SMTP, col., 11, lines 22 – 62, figure 4a) an identification (e.g., type of e-mail attachment, figure 14, using HTTPS, col., 5, lines 40 – 53) of a second file (e.g., e-mail attachment file, col., 6, lines 12 – 24, figure 14, text or image or audio, col., 15, lines 27 – 58, col., 9, lines 44 – 56) in the reference header (e.g., reference information of other message information, col., 11, lines 22 – 62, figure 4a), determining a nearest location (e.g., use of pointer information including available closest location, col., 8, line 56 – col., 9, line 13) to retrieve the second file (e.g., e-mail attachment file, col., 6, lines 12 – 24, figure 14, text or image or audio, col., 15, lines 27 – 58) based on the identifier (response to above argument 2 for identifier use), and retrieving (e.g., use of pointer to receive e-mail information according to the SMTP, col., 11, lines 22 – 62, figure 4a) the second file (e.g., e-mail attachment file, col., 6, lines 12 – 24, figure 14, text or image or audio, col., 15, lines 27 – 58) based on the determining (e.g., type of e-mail attachment, figure 14, using HTTPS, col., 5, lines 40 – 53). Also, page 10, lines 5-8 of the specification, clearly states, "The invention should therefore not be limited to the particular embodiments discussed above, but rather is defined by the claims". Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of the claimed subject matter. Besides referring to the original e-mail itself, O'Neal also discloses referring to other information including attachments, etc. Therefore, the rejection is maintained.

Applicant argues (8), "the use of an identifier in the context of claim 1 (determining a nearest location to retrieve said second file based on said identifier, see claim 1)" is not well-known in the art. The examiner respectfully disagrees in response to applicant's arguments. O'Neal discloses parsing a header portion (e.g., use of pointer to parse information including header information from e-mail received according to the SMTP, col., 11, lines 22 – 62, figure 4a) of a first file (e.g., use of TIFF or GIF file, col., 2, lines 20 – 44, audio file, col., 12, lines 24 – 41, col., 9, lines 44 – 56) to find a reference header (e.g., reference information of other message information, col., 11, lines 22 – 62, figure 4a), and extracting (e.g., use of pointer to separate information including header information from e-mail received according to the SMTP, col., 11, lines 22 – 62, figure 4a) an identification (e.g., type of e-mail attachment, figure 14, using HTTPS, col., 5, lines 40 – 53) of a second file (e.g., e-mail attachment file, col., 6, lines 12 – 24, figure 14, text or image or audio, col., 15, lines 27 – 58, col., 9, lines 44 – 56) in the reference header (e.g., reference information of other message information, col., 11, lines 22 – 62, figure 4a)". The well-known arts, contain teachings of an identifier and usage of the identifier including determining location by the identifier, see cited arts, Smiga et al., 6,622,147 and/or Allen et al., 6,026, 410. Therefore, the rejection is maintained.